

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America, :
 Plaintiff, :

 v. : Case No. 2:07-cr-006

Jared Sharp, : JUDGE GRAHAM

 Defendant. :

REPORT AND RECOMMENDATION

The defendant appeared for a final supervised release revocation hearing on February 16, 2007. He stipulated to the violations set forth in the Probation Officer's report dated December 22, 2006. Those violations include use of controlled substances, use of alcohol to excess, failing to report for counseling sessions to address his substance abuse, failing to notify the probation office of changes in residence and employment, and failing to report as required. Based on the stipulation, it is recommended that the Court find that defendant committed the violations alleged.

In terms of punishment, both counsel agreed that revocation is appropriate, but disagreed as to the length of sentence to be imposed. The Probation Officer had recommended a six-month term of imprisonment originally, but orally altered that recommendation to ten months based on the defendant's recent use of controlled substances while on release awaiting the final hearing and his decision to walk away from the Alvis House, leading to his arrest on February 13, 2007 for violations of the Court's release order. The United States agreed with the new recommendation. Defendant argued for a six-month term based on the fact that he did successfully complete a portion of his term

of supervised release. The guideline range is five to eleven months.

The initial behavior alleged in the petition clearly justifies a six-month sentence, which is at the low end of the guideline range. The defendant was given an opportunity to come into compliance with his supervised release terms and to get assistance with his substance abuse problem after he originally appeared before the Court. His apparently deliberate refusal to take advantage of that opportunity is an aggravating factor and mandates a longer sentence. The Court recommends a sentence of nine months, with no additional supervised release to follow, as adequate to address the violations which occurred here.

The parties were advised that they have ten days within which to file any objections to this Report and Recommendation. The failure to do so waives any issues for appeal.

/s/ Terence P. Kemp
United States Magistrate Judge